

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT AVERY and
ANDREW POTTER

Case No.: 18

Plaintiffs,

Hon.

-v-

TREMAINE NEVERSON,

Defendant.

_____/

Marc J. Mendelson P-52798
Eric M. Simpson P-57232
Lewis A. Melfi P-73854
Joshua B. Farr P-74107
MIKE MORSE LAW FIRM
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_____/

PLAINTIFFS' COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Robert Avery and Andrew Potter, by and through their attorneys, Mike Morse Law Firm, P.L.L.C., for their Complaint against the above-named Defendant, state as follows:

JURISDICTION AND VENUE

1. This is a civil action for money damages.
2. This court has original jurisdiction over Plaintiffs' claims presented in this Complaint pursuant to 28 U.S.C. §1332.
3. The amount in controversy exceeds Seventy-Five Thousand (\$75,000.00) Dollars,

exclusive of interest, costs and attorney fees.

4. The actions alleged in this Complaint took place within the jurisdiction of the United States District Court for the Eastern District of Michigan (Southern Division). Venue is proper under 28 U.S.C. §1391(b).

PARTIES

5. The Plaintiff, Robert Avery, is, and at all times relevant to this action was, a resident of the State of Michigan.

6. The Plaintiff, Andrew Potter, is, and at all times relevant to this action was, a resident of the State of Michigan.

7. Defendant, Tremaine Neverson, is, and at all times relevant to this action was, a resident of the State of Virginia.

FACTUAL ALLEGATIONS

8. On or about December 28, 2016, the Defendant, Tremaine Neverson, was performing under his stage name, “Trey Songz”, at “The Big Show at the Joe” at Joe Louis Arena in Detroit, Michigan.

9. On said date, Plaintiff, Robert Avery, was working crowd control at Joe Louis Arena in his capacity as a Sergeant of the City of Detroit Police Department, with whom he has been employed for twenty-two (22) years.

10. On said date, Plaintiff, Andrew Potter, was working the concert event as a professional photographer with press credentials.

11. According to the Detroit Police Request for Warrant, during the performance, Defendant stated, “If a nigga cut me off I’m goin’ the fuck crazy.” (**Exhibit A**).

12. Shortly thereafter, the stage lighting became dark and the Defendant could be observed on stage attempting to utilize the microphone, which appeared to have been turned off.

(**Exhibit A**).

13. Defendant became irate and hurled heavy sound equipment and other items off of the stage and into persons in the crowd. (**Exhibit A**).

14. Defendant jumped into the crowd, pushed through patrons, climbed back onto the stage, and continued to destroy items on the stage. (**Exhibit A**).

15. Defendant picked up a microphone stand and deliberately, intentionally and recklessly threw it at the Plaintiff, Andrew Potter, striking him in the back of the head and knocking him to the ground. (**Exhibit A**).

16. Plaintiff, Andrew Potter, sustained a serious head injury as a result of the assault and was immediately taken to the hospital for treatment. (**Exhibit A**).

17. Following the malicious assault on Mr. Potter, members of the Detroit Police Department, including Plaintiff, Robert Avery, were ordered to go to the dressing room area backstage at Joe Louis Arena to arrest the Defendant. (**Exhibit A**).

18. As members of the Detroit Police Department, including Plaintiff, Robert Avery, entered the Joe Louis Arena dressing room, the Defendant was irate, uncooperative, refused to comply with verbal commands, appeared intoxicated, and shouted numerous expletives to the officers, including racially derogatory expletives, such as:

- “Why the fuck are y’all here? I’m not talking to y’all about shit!”;
- “Y’all not talking to me about shit! Get the fuck out!”;
- “Fuck you cracker white mother fuckers!”;
- “Fuck y’all!”;
- “Don’t touch me you white mother fucka!”;
- “Fuck you Detroit Police! I ain’t saying nothing to you!”;
- “Fuck y’all, you white mother fuckers! I’m not going no where! Fuck you!”;
- “Fuck all you honkeys and fuck the police!”;
- “Fuck you cracker!”;
- “Fuck y’all, I don’t have to talk to you white mother fuckers!”

19. Police Officer from the Detroit Police Department attempted to take Defendant into

custody, but Defendant became combative, actively resisted, and physically fought the officers. **(Exhibit A).**

20. During the officers' attempt to take Defendant into custody, Defendant struck Plaintiff, Robert Avery, on the right side of his face with a closed fist. **(Exhibit A).**

21. Defendant continued to intentionally and physically resist the officers' efforts to secure his hands in handcuffs and, during the struggle, Defendant landed on top of Plaintiff, Robert Avery, on the ground, causing Mr. Avery to strike his head on the concrete and injure his hip.

22. At the time of his arrest, Defendant had a strong odor of intoxicants on his breath, slurred speech, and glassy eyes, which was consistent with an intoxicated person.

23. Following Defendant's arrest, he continued to be irate, uncooperative, yell and curse, including, "Fuck the police!"

24. As Detroit Police Lt. Rodney Jackson explained to Defendant why he was placed under arrest, Defendant shouted, "That ain't shit! That ain't nothing to arrest me over! I'm going to pay that old, broke ass nigger! Ain't there some real criminals? I sing to Hoesi!"

25. Defendant also refused to cooperate in the booking process, as exhibited in his booking photo:



26. Following the incident, Plaintiff, Robert Avery, had visible bruising and swelling to his right temple, and a contusion to his left forehead, which was all documented by Lt. Rodney Jackson.

27. On December 23, 2016, just days prior to this incident, Defendant's disdain towards the police and disrespect for the authority of the police was exhibited when he was kicked out of the MGM National Harbor Casino in Maryland and posted multiple videos on his Snapchat and Instagram social media accounts, which were later compiled together and posted to YouTube.

28. In one of the December 23, 2016 videos, Defendant can be seen, with several uniformed police officers in the background, stating, "Hey this is Trey Songz in D.C. with special message for the fucking police - Fuck y'all! Fuck the police!"



29. In another one of the December 23, 2016 videos, Defendant states, "On my momma, on everyone I love, fuck the police."

30. In yet another one of the December 23, 2016 videos, Defendant states, "So they

kicked me out of the MGM, but I'm in the MGM bathroom and it's still fuck the police!"

31. As a result of his intentional conduct against Plaintiffs Andrew Potter and Robert Avery, the Defendant was charged with assaulting/resisting/obstructing a police officer in violation of MCL 750.81d(1), as well as aggravated assault in violation of MCL 750.81a. *State of Michigan v Neverson*, Wayne County Circuit Court Case No. 17-001276-01-FH.

32. The above-referenced December 23, 2016 videos from Defendant's social media accounts were held to be admissible in the criminal matter, as they were relevant to his intent at the time of his assault on Plaintiff, Robert Avery.

33. On August 18, 2017, the Defendant pleaded guilty to two counts of disturbing the peace in violation of MCL 750.170. *State of Michigan v Neverson*, Wayne County Circuit Court Case No. 17-001276-01-FH.

COUNT I
ASSUALT & BATTERY – PLAINTIFF ROBERT AVERY

34. Plaintiffs re-allege and incorporate by reference the preceding allegations as if fully set forth herein.

35. At all times relevant hereto, Defendant, Tremaine Neverson, communicated intentional and unlawful threats of imminent bodily harm to Plaintiff, Robert Avery, placing Plaintiff in well-founded fears of imminent peril.

36. Defendant, Tremaine Neverson, acted upon his threats by striking Plaintiff, Robert Avery, in the head with his fist and by forcing Plaintiff onto the concrete floor.

37. Plaintiff, Robert Avery, did not consent to these acts.

38. As a direct and proximate result of Defendant Neverson's assault and battery, Plaintiff, Robert Avery, has suffered and will continue to suffer damage into the future, including but not limited to:

- a. Physical pain and suffering;
- b. Injuries to the head, hip, and other bodily injuries;
- c. Permanent scarring;
- d. Mental anguish;
- e. Severe emotional distress;
- f. Fright and shock;
- g. Denial of social pleasures and enjoyment;
- h. Humiliation or mortification;
- i. Reasonable medical bills and expenses for the past, present and future;
- j. Loss of past and future wages; and,
- k. All other damages properly recoverable under law.

WHEREFORE, Plaintiff, Robert Avery, requests that this court enter judgment against Defendant, Tremaine Neverson, in whatever amount he may be found to be entitled, together with interest, costs, reasonable attorney fees, and such other relief as the court deems just under the circumstances.

COUNT II
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
PLAINTIFF ROBERT AVERY

39. Plaintiffs re-allege and incorporate by reference the preceding allegations as if fully set forth herein.

40. The conduct described in the foregoing paragraphs and allegations was intentional, extreme, outrageous, and of such character as to not be tolerated by a civilized society.

41. The conduct was done with the intent to cause emotional distress and/or so reckless that a reasonable person would know that emotional distress would result.

42. As a direct and proximate result of Defendant's actions, Plaintiff, Robert Avery, suffered severe emotional distress and damages.

WHEREFORE, Plaintiff, Robert Avery, requests that this court enter judgment against Defendant, Tremaine Neverson, in whatever amount he may be found to be entitled, together with interest, costs, reasonable attorney fees, and such other relief as the court deems just under the circumstances.

COUNT III
ASSUALT & BATTERY – PLAINTIFF ANDREW POTTER

43. Plaintiffs re-allege and incorporate by reference the preceding allegations as if fully set forth herein.

44. At all times relevant hereto, Defendant, Tremaine Neverson, communicated intentional and unlawful threats of imminent bodily harm to Plaintiff, Andrew Potter, placing Plaintiff in well-founded fears of imminent peril.

45. Defendant, Tremaine Neverson, acted upon his threats by deliberately targeting Plaintiff, Andrew Potter, throwing a microphone stand at Plaintiff, and striking him in the head, causing him to fall face first to the concrete floor.

46. Plaintiff, Andrew Potter, did not consent to these acts.

47. As a direct and proximate result of Defendant Neverson's assault and battery, Plaintiff, Andrew Potter, has suffered and will continue to suffer damage into the future, including but not limited to:

- a. Physical pain and suffering;
- b. Injuries to the head and other bodily injuries;
- c. Mental anguish;
- d. Severe emotional distress;
- e. Fright and shock;
- f. Denial of social pleasures and enjoyment;
- g. Humiliation or mortification;
- h. Reasonable medical bills and expenses;
- i. Economic damages for damage to professional photography equipment; and,
- j. All other damages properly recoverable under law.

WHEREFORE, Plaintiff, Andrew Potter, requests that this court enter judgment against Defendant, Tremaine Neverson, in whatever amount he may be found to be entitled, together with interest, costs, reasonable attorney fees, and such other relief as the court deems just under the circumstances.

COUNT IV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
PLAINTIFF ANDREW POTTER

48. Plaintiffs re-allege and incorporate by reference the preceding allegations as if fully set forth herein.

49. The conduct described in the foregoing paragraphs and allegations was intentional, extreme, outrageous, and of such character as to not be tolerated by a civilized society.

50. The conduct was done with the intent to cause emotional distress and/or so reckless that a reasonable person would know that emotional distress would result.

51. As a direct and proximate result of Defendant's actions, Plaintiff, Andrew Potter, suffered severe emotional distress and damages.

WHEREFORE, Plaintiff, Andrew Potter, requests that this court enter judgment against Defendant, Tremaine Neverson, in whatever amount he may be found to be entitled, together with interest, costs, reasonable attorney fees, and such other relief as the court deems just under the circumstances.

Respectfully submitted,

/s/ Eric M. Simpson

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Dated: June 4, 2018

JURY DEMAND

Plaintiffs, Robert Avery and Andrew Potter, by and through their attorneys, Mike Morse Law Firm, P.L.L.C., hereby demands Trial by Jury in this matter.

Respectfully submitted,

/s/ Eric M. Simpson

Marc J. Mendelson P-52798

Eric M. Simpson P-57232

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Joshua B. Farr P-74107

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Dated: June 4, 2018

EXHIBIT A

UD-94 (2-89)

AUTHORITY: PA 59 of 1935
Compliance Voluntary

DETROIT POLICE REQUEST FOR WARRANT

DEC 29 2016

16-GIT-020 Police Offense Number		INVESTIGATOR'S REPORT			2016725177 Prosecutor Case No.		
<input type="checkbox"/> MORE DEFN.		Crisnet #1612290001			DATE: 12/29/2016		
CUST	DEFENDANT NAME (Last, First, Middle)	FULL ADDRESS	AGE	SEX	RACE	D.O.B.	ST. & LOCAL I.D.
Y	Neverson, Tremaine	[REDACTED]	32	M	B	[REDACTED]	5385480H
Offense (To be filled in by Prosecutor) Resisting/obstructing Police 750.81D2 Agg Assault 750.81A							
Place of Offense: Joe Louis Areana, 19 Steve Yzerman Dr, Detroit MI					Date: 12/28/2016 Time 11:00 PM		Date of Complaint: 12/29/2016
Complainant's Name (Last, First, Middle) Andrew Potter		Full Address (See File)			Age	Sex	Phone No. See File
Person to Sign (Last, First, Middle) Information and Belief			Reviewing Attorney and Bar No. Cholla Brown P57253				

DETAILS OF INVESTIGATION

GUN USED N #KILLED/INJURED YComplainant#2: Sgt. Robert Avery #S-220CIRCUMSTANCES:

On December 28th, 2016 The Gang Intelligence Team was providing assistance to Detroit Police Department Downtown Services Section with "The Big Show at the Joe." Gang Intelligence routinely serves this function in the interior of the venues providing officer presence and assisting security with other matters that arise. At approximately 9:50 PM while "Trey Songz" / Defendant (later identified as Tremaine Neverson B/M/[REDACTED]) was performing he stated "If a nigga cut me off I'm goin' the fuck crazy." Shortly there after, the stage lighting became dark and the Defendant could be observed on stage attempting to utilize the microphone which appeared to be turned off. The Defendant became irate and began to throw items around and off of the stage into the crowd. The Defendant then jumped into the crowd and began pushing through patrons then climbed back onto the stage where he continued to destroy items on the stage. The Defendant then picked up a mic stand and threw it at the Complainant, striking him in the back of the head and knocking him to the ground. The event security then escorted him off of the stage.

Det. Michael Reizin badge D-3545 Gang Intelligence Team
Officer in Charge Badge Precinct/Bureau

Reviewed &

Approved By: Sgt. Rodney Jackson Gang Intelligence Team
Commanding Officer Precinct/Bureau

17000057

STATE OF MICHIGAN
COUNTY OF WAYNE SS

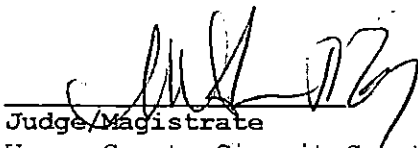
SEARCH WARRANT AND AFFIDAVIT
Page 1 of 2

TO THE SHERIFF OR ANY PEACE OFFICER OF SAID COUNTY: NOW COMES AFFIANT, LANCE SULLIVAN, a Sergeant for the City of Detroit Police Department, currently assigned to Homicide, having subscribed and sworn to an affidavit for a search warrant, and I have under oath examined affiant, am satisfied that probable cause exists:

THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN, I command that you search the following described place: Joe Louis Arena which is located in the city of Detroit, County of Wayne, State of Michigan.

AND TO SEIZE, SECURE, TABULATE AND MAKE RETURN ACCORDING TO LAW THE FOLLOWING PROPERTY AND THINGS: Any and all computers, hard drives, and any data storage devices used to store video and/or audio data.

Subscribed and sworn to before me and issued under my hand this 30th day of December 2016



Judge/Magistrate
Wayne County Circuit Court
Wayne County, State of Michigan

17000057

STATE OF MICHIGAN
COUNTY OF WAYNE SSSEARCH WARRANT AND AFFIDAVIT
Page 2 of 2

Affiant, PO John Stewart #3295, assigned to the Detroit Police Department's Gang Intelligence Team, has approximately 5 years of experience in analyzing criminal patterns and investigating violent crimes, including the crimes of robbery, carjacking, and homicide.

On December 28th, 2016 The Gang Intelligence Team was providing assistance to Detroit Police Department Downtown Services Section with "The Big Show at the Joe." Gang Intelligence routinely serves this function in the interior of the venues providing officer presence and assisting security with other matters that arise. At approximately 9:50 PM while "Trey Songz" (later identified as Tremaine Neverson B/M [REDACTED]) was performing he stated "If a nigga cut me off I'm goin' the fuck crazy." Shortly the stage lighting became dark and Mr. Neverson could be observed on stage attempting to utilize the microphone which appeared to be turned off. Mr. Neverson became irate and began to throw items around and off of the stage into the crowd. Mr. Neverson continued to destroyed items on the stage until security escorted him off of the stage.

Following the incident Lt. Rodney Jackson of Detroit Police Gang Intelligence received information that a person was in route to the hospital, who had sustained a head injury as a result of Mr. Neverson throwing a piece of stage equipment which struck him in the head. Members of the Gang Intelligence Team went to Mr. Neverson's dressing room where for officer safety they instructed all of the members of Mr. Neverson's entourage to leave the area. While attempting to arrest Mr. Neverson he became noncompliant and began to actively resist their attempts to place him in handcuffs. As a result of Mr. Neverson's attempt to fight off officers who attempted to arrest him Sgt. Robert Avery was struck in the head and later determined to be suffering from a concussion after receiving treatment at Detroit Receiving Hospital. Members of the Gang Intelligence Team took Mr. Neverson into custody and he was transported to the Detroit Detention Center by units assigned to Detroit Police Downtown Services.

On December 28th 2016, Det. Reizin of Detroit Police Gang Intelligence went to Royal Oak Beaumont Hospital where he spoke to Andre Potter who provided a statement stating that he was working as a photographer when he observed "Trey Songz" become irate and start throwing items from the stage into the crowd. Mr. Potter went on to say that he turned away from the stage when he felt something hit him in the head, causing him to fall to the ground. Mr. Potter was then moved away from the front of the stage to receive treatment from EMS that was onsite. After being advised by EMS to seek further medical treatment at a hospital, he was driven home by his coworker Stephanie Dennis and from there transported to Royal Oak Beaumont Hospital by his wife Shanna Potter. Mr. Potter was evaluated by Dr. Shaw where he was determined to be in stable condition, suffering from a concussion (Chart Number: 4049463-2002). When Mr. Potter was asked if there were any other witnesses to the incident he stated that Joseph Orlando (another photographer) witnessed the incident take place.

On December 28th 2016 Det. Reizin conducted an interview of Joseph Orlando after receiving information from Andrew Potter that he was a witness to the incidents that lead to Mr. Potter sustaining injuries that sent him to the hospital with a concussion. Mr. Orlando stated that he was next to Mr. Potter when "Trey Songz" became angry when he felt that his microphone had been cut off, and began throwing items from the stage into the crowd. Mr. Orlando stated he was standing next to Mr. Potter when he observed "Trey Songz" pick up a microphone stand and throw it in their general direction. Mr. Orlando stated that the microphone stand that was thrown hit Mr. Potter square in the head causing him to fall flat on his face.

It is the affiant's belief that the security footage from Joe Louis Arena will aid law enforcement in investigating the chain of events leading to Andrew Potter being struck in the head with a microphone stand and could possibly provide footage of Mr. Neverson's actions which lead to a closed head injury to Sgt. Robert Avery.

Based on the aforementioned information there is probable cause to believe that a search of Joe Louis Arena, located in Detroit, Michigan and the digital/analog video surveillance system may yield video evidence needed for the successful identification and prosecution of those persons involved in the fatal shooting of Complainant Conyers. Also prompt forensic examination of this system may reveal whether there was any tampering with the associated video files of this date, and possibly recover any deleted files. Finally, Affiant has knowledge that most surveillance systems store data for different amounts of time ranging from hours to days and even weeks.

UD-94.(2-89)

AUTHORITY: PA 59 of 1935

Compliance Voluntary

DETROIT POLICE REQUEST FOR WARRANT

Following the incident Lt. Rodney Jackson of Detroit Police Gang Intelligence received information that the Complainant was struck in the head by the Defendant with the mic stand and was enroute to the hospital. Lt. Rodney Jackson ordered Members of the Gang Intelligence Team to advise and arrest the Defendant. Members of the Detroit Police Gang Intelligence Team then went to the Defendant's dressing room, where for officer safety they instructed all of the members of The Defendant's entourage to leave the area. Members of the Gang Intelligence Team attempted to take the Defendant into custody but the Defendant became combative, actively resisted and fought the Officers. During which, the Defendant struck Sgt. Robert Avery of the Detroit Police Gang Intelligence Team on the right side of his face with a closed fist. After a brief struggle the Defendant was taken into custody. The Defendant was then transported to the Detroit Police Detention Center for processing without further incident.

The Complainant was treated for the head injury at Beaumont Hospital, due to being hit in the head with a mic stand by the Defendant.

Sgt. Robert Avery was treated for a concussion at Detroit Receiving Hospital, due to being struck in the face by the Defendant.

INVESTIGATION:

On December 28th 2016, Det. Michael Reizin of DPD Gang Intel attempted to interview Defendant at the scene, but he refused.

On December 29th 2016, Det. Michael Reizin of DPD Gang Intel interviewed the Complainant at Beaumont Hospital, who stated that he was a photographer working the venue when he was struck in the head by a mic stand thrown at him by the Defendant.

On December 29th 2016, Det. Michael Reizin of DPD Gang Intel interviewed the witness Joseph Orlando, who stated that he was a photographer working the venue when he observed the Defendant deliberately throw a mic stand at the Complainant's head and knocking him to the ground.

EVIDENCE:

None at this time.

Det. Michael Reizin badge D-3545 Gang Intelligence Team
Officer in Charge Badge Precinct/Bureau

Reviewed &

Approved By: Sgt. Rodney Jackson Gang Intelligence Team
Commanding Officer Precinct/Bureau